IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

ORDER

Rajasthan Welfare Society Vs. State of Rajasthan & Another
(SB Civil Writ Petition No.307/1999)

SB Civil Writ Petition under Article
226 of the Constitution of India.

Date of order: October 03, 2006.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. N.K.Maloo, for the petitioner.

None for respondents.

BY THE COURT:

The petitioner seeks to quash paras 4&5 of the order dated April 28, 1998 and to direct the respondents to give grant @ 100% for the classes at least upto 9th standard and reimburse full expenditure.

2. Contextual facts depict that the petitioner Society constituted Managing Committee for the purpose of smooth running its educational institutions. The institutions are recognised by the State Government and are affiliated to Board of Secondary Education, Rajasthan, Ajmer. The State Government is giving only 60% aid to the upper primary section (Std.1 to 5) and 70% aid to the upper primary section (Std.6 to 12). The population of the town is near about 50,000 mostly consisting of lower middle class, economically poor and socially backward sections of the society. The petitioner society has been charging very nominal fees from the students and the annual deficit left after the grant and fees is made up by donations. The

petitioner society was given aid to the extent of 50% even before formation of State of Rajasthan, the same was raised only to 60% for primary section and 70% for upper primary section in the year 1976, although the petitioner society has been representing again and again for increasing the grant.

Vide paras 4 and 5 of the order dated April 28, 1998 the State Government decided to curtail/ reduce the aid upto 50%. Paras 4 and 5 reads as under:-

> "4. नगरपालिका सीमा में स्थित (कच्ची बस्तियों को छोडकर) प्राथमिक स्तर के विद्यालयो को अनुदान वर्ष 1998-99 से प्रतिवर्ष 10 प्रतिशत कम करके 50 प्रतिशत तक सीमित कर दिया जावें।"
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> "5. नगरपालिका सीमा में स्थित (कच्ची बस्तियों को छोडकर) प्राथमिक विद्यालय चलाने वाली संस्थायें यदि अपने प्राथमिक स्तर के विद्यालयों को ग्रामीण क्षेत्रों में, छोटे कस्बों में या बडे शहरों की कच्ची बस्तियों में स्थानान्तरित करना चाहती हो तो उन्हें वर्तमान में देय अनुदान बनाये रखकर संस्था को स्थानान्तरित करने की अनुमति दे दी जावे।"

3. The respondents submitted reply to the writ petition with the averments that all the institutions of the petitioner society are situated in town and mostly upper class students are studying in those institutions and they are getting the required aid.

4. I have heard the submissions. Article 45 of the Constitution of India provides that the Government shall provide free and compulsory education for children until they complete the age of 14 years. Instead of following this mandate, the State Government is now seeking to reduce the aid by applying indirect methods. Paras 4 and 5 of the order are violative to the Constitution. Conjoint reading of paras 4 and 5 would go to show that aid would be reduced to the level of 50% unless the schools situated in Municipal Areas are physically shifted to slum area (Kacchi Basti) in the

same township or in a big city. Criteria of shifting the schools to Kacchi Basti has nothing to do with any purpose to be achieved and there is no rational behind it. Knowing fully well that it is practically impossible to shift the institutions from one place to another, the State Government deliberately made the provision only to curtail the grant. The State Government has evolved the indirect method to financially cripple the institutions. Paras 4 and 5 of the are arbitrary and violative of Article 14 of the Constitution. The decision arrived at vide paras 4 and 5 is based on the colourable exercise of power.

5. Resultantly, I allow the writ petition and quash paras 4 and 5 of the order dated April 28, 1998. The State Government is also directed to follow the mandate of Article 45 of the Constitution. There shall be no order as to costs.

(Shiv Kumar Sharma)J.

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